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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,913	10/29/2001	William F. Avrin	MED/US-12	7514
22875	7590	12/29/2004	EXAMINER	
GERALD W SPINKS P. O. BOX 2467 BREMERTON, WA 98310			MANTIS MERCADER, ELENI M	
			ART UNIT	PAPER NUMBER
			3737	

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/017,913

**Applicant(s)**

AVRIN ET AL.

**Examiner**

Eleni Mantis Mercader

**Art Unit**

3737

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “flexible container” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 3737

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chamberlain (US Patent No. 5,610,518) in view of Schocket (US Patent No. 3,897,141).

Chamberlain'518 teaches a method for noninvasive screening of a human eye for the presence of a ferromagnetic foreign body, said method comprising:

providing at least one magnetic sensor, and means for processing sensed signals from said at least one magnetic sensor (see col. 1, lines 45-49; referring to the two Hall sensors);

positioning said magnetic sensor in proximity to an eye of the patient (see col. 1, lines 25-36; referring to bringing the magnetic sensor in the proximity of the eyes);

applying a magnetic field to said eye with an applied field source which includes a permanent magnet (see col. 1, line 49-58; referring to the magnet inducing a magnetic field); and

outputting data corresponding to the magnetic susceptibility of a ferromagnetic foreign body within said eye (see col. 1, lines 25-36 and col. 1, lines 59-67).

Chamberlain'518 does not explicitly teach moving at least one eye of the patient and sensing a plurality of responses from said eye with said magnetic sensor, at a plurality of gaze orientations. Schocket'141 teaches that in order to examine the eye of the patient for diagnosis purposes a gaze fixation target may be used to hold the patient's eye at a fixed position in order to allow the diagnostician to examine that particular eye area and then by moving the target the gaze of the patient changes allowing for a new portion of the eye to be examined, the procedure being repeated so as to examine the whole eye (see col. 1, lines 34-47 and col. 2, lines 10-42).

Therefore, it would have been obvious to one skilled in the art at the time that the invention was made that Chamberlain'518 could be modified to incorporate the use of a gaze fixation target as

Art Unit: 3737

taught by Schocket' 141 in order to thoroughly examine the eyes and in order to accurately diagnose the presence and location of a foreign body. Also, one skilled in the art would repeat the measurement as taught by Schocket' 141 in order to thoroughly examine the eyes of the patient for the lesion of interest or the presence of a foreign object by a gaze pattern which could be up or down, side to side, or moved in a random or predetermined pattern as long as each of the eyes, right and left, is thoroughly examined.

Chamberlain' 518 further teaches that the measurement is proportional to the size of the ferromagnetic body (see col. 1, lines 65-67; stating that the output signal is proportional to the anomaly). Furthermore, if the size of the particle can be measured its location is necessarily determined since the location of the detector will coincide with the area of the eye location of the ferromagnetic body.

4. Claims 14-16 and 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chamberlain (US Patent No. 5,610,518) in view of Schocket (US Patent No. 3,897,141) and further in view of Wikswow et al. (US Patent No. 5,408,178).

Chamberlain' 518 in view of Schocket' 141 do not explicitly teach the use of a SQUID. The use of SQUID which includes the use of coils to measure magnetic susceptibility is well known to skilled artisans as taught for example by Wikswow et al.' 178 (see col. 4, lines 5-64).

Therefore, it would have been obvious to one skilled in the art at the time that the invention was made to incorporate the use of a SQUID device in detecting foreign bodies as the SQUID is very sensitive in determining small magnetic susceptibilities thereby increasing the accuracy of the foreign body diagnosis.

Art Unit: 3737

Wikswa et al.' 178 teaches as well known the use of a water-bag in order to increase the accuracy of the susceptibility measurement by eliminating the bulk susceptibility (see col. 3, lines 33-48).

*Conclusion*

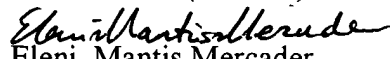
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gammon, US Patent No. 4,274,716 teaches the use of an ocular fixation device in order to diagnose and foreign body removal.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eleni Mantis Mercader whose telephone number is 703 308-0899. The examiner can normally be reached on Mon. - Fri., 8:00 a.m.-6:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on (703) 308-3552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Eleni Mantis Mercader  
Primary Examiner  
Art Unit 3737

EMM